

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-95-3893; FR-3879-N-01]

## NOFA for Emergency Shelter Grants Set-Aside for Indian Tribes and Alaskan Native Villages

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of funding availability.

**SUMMARY:** This NOFA announces the availability of \$1,568,000 in funds for emergency shelter grants to be allocated to Indian tribes and Alaskan Native villages by competition for Fiscal Year (FY) 1995. Assistance provided to Indian tribes and Alaskan Native villages under this NOFA will be used to help improve the quality of existing emergency shelters for the homeless, to make available additional emergency shelters, to meet the costs of operating emergency shelters and of providing essential social services to homeless individuals, and to help prevent homelessness. This ESG set-aside allocation will increase the availability and expedite receipt of program funds to Native American communities. This NOFA contains: (1) Information concerning eligible applicants, (2) Information on funding available within each HUD Indian program region, (3) Information on application requirements and procedures, and (4) A description of applicable statutory changes to the ESG program.

**DATES:** Applications must be received by the appropriate HUD Office of Native American Programs (ONAP) by no later than 3:00 p.m. local time (i.e., the time in the office to which the application is submitted) on May 26, 1995. Application materials will be available from each appropriate area ONAP.

**ADDRESSES:** Application packages are available from the HUD area Offices of Native American Programs listed in Appendix 2 to this NOFA. The ONAP serving the area in which the applicant's project is located must receive an original application and one copy no later than 3:00 p.m. local time (i.e., the time in the office to which the application is submitted) on the deadline date.

**FOR FURTHER INFORMATION CONTACT:** Bruce Knott, Director, Housing and Community Development Division, Office of Native American Programs, Department of Housing and Urban Development, Room B-133, 451

Seventh Street SW., Washington, DC 20410-7000; telephone (202) 755-0068, TDD (202) 708-0850. (These telephone numbers are not toll free.)

### SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act Statement

The information collection requirements contained in this Notice of Funding Availability (NOFA) have been submitted to the Office of Management and Budget (OMB) for review. The approval number will be published in the **Federal Register** through separate notice.

#### I. Purpose and Substantive Description

##### A. Authority and Purpose

The Emergency Shelter Grants (ESG) program was first established in section 101(g) of Public Law 99-500 (approved October 18, 1986), making appropriations for Fiscal Year (FY) 1987 as provided in H.R. 5313. The program was reauthorized with amendments in the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11371-11378) (McKinney Act). Section 832(f) of the National Affordable Housing Act (NAHA) (Pub. L. 101-625, approved November 28, 1990), provided for the explicit eligibility of Indian tribes for ESG program assistance, and established a set-aside allocation for Indian tribes that is equal to 1 percent of the amounts appropriated for the ESG program. Regulations governing the ESG program are in 24 CFR part 576, except as superseded by statutory amendments under NAHA and the Housing and Community Development Act of 1992 (1992 Act) (Pub. L. 102-550, approved October 28, 1992), as discussed below.

As a result of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1995 (Pub. L. 103-327, approved September 28, 1994), \$156,800,000 is available for the Emergency Shelter Grants (ESG) Program as authorized by Subtitle B, Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended. Of that amount, \$1,568,000 (1 percent of the total) was set aside for Indian tribes and Alaskan Native villages. The proposed rule on the Emergency Shelter Grants Program; Set-Aside Allocation for Indian Tribes and Alaskan Native Villages, published in the **Federal Register** on April 5, 1993 (58 FR 17764), describes the method for allocating these funds.

These grants will be governed by all provisions applicable to the ESG Program, including the provisions in the Housing and Community Development Act of 1992 that became effective upon

that law's enactment, such as the authorization to make eligible the use of grant funds for staff costs relating to the operation of emergency shelters up to a maximum amount of 10 percent of the grant, and the requirement that the recipient establish a "formal process" in order to terminate assistance under the program.

Assistance provided to Indian tribes and Alaskan Native villages under this NOFA will be used to help improve the quality of existing emergency shelters for the homeless, make available additional emergency shelters, meet the costs of operating emergency shelters and of providing essential social services to homeless individuals, and help prevent homelessness. This ESG set-aside allocation will increase the availability and expedite receipt of program funds to Native American communities.

##### B. Statutory Amendments

This NOFA addresses section 832 of NAHA, which contains numerous amendments to the McKinney Act, and several amendments to the ESG Program in the 1992 Act. These statutory amendments supersede applicable provisions of the program regulations found in 24 CFR part 576. This NOFA describes these statutory changes to assist Indian tribes in complying with program requirements, including the NAHA and 1992 Act amendments (see appendix 1 of this NOFA for a listing of statutory amendments that apply to this program).

#### II. Application Process

##### A. Allocation Amounts

This NOFA announces the availability of a total of \$1,568,000 in funding provided by HUD's appropriations act for FY 1995 to fund competitive grants to Indian tribes for emergency shelter grants. Set-aside allocations of the total amount to each area Office of Native American Programs (ONAP) are detailed in the following chart:

#### ALLOCATION OF ESG SET-ASIDE FOR INDIAN TRIBES BY HUD AREA ONAPS FOR FY 1995

Eastern/Woodlands .....	\$261,307
Southern Plains .....	309,758
Northern Plains .....	296,666
Southwest .....	418,578
Northwest .....	135,436
Alaska .....	146,255
Total .....	1,568,000

HUD reserves the right to negotiate reductions in the amounts requested by applicants based on the overall demand

for the funds. HUD further reserves the right to reallocate these amounts as provided in section II.F, Ranking and Selection, of this NOFA. Each Indian tribe must spend all of the grant amounts it is awarded within 24 months of the date of the grant award by HUD. Any emergency shelter grant amounts that are not spent within this time period may be recaptured and added to the following fiscal year's ESG set-aside for Indian tribes.

### B. Eligibility and Threshold Requirements

#### (1) Eligible Applicants

Eligible applicants are any Indian Tribe, band, group, or nation, including Alaskan Indians, Aleuts, and Eskimos, and any Alaskan native village of the United States which is considered an eligible recipient under Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450), or which had been an eligible recipient under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221). Eligible recipients under the State and Local Fiscal Assistance Act of 1972 are those that have been determined eligible by the Department of the Treasury, Office of Revenue Sharing.

Tribal organizations which are eligible under Title I of the Indian Self-Determination and Education Assistance Act may apply on behalf of any Indian Tribe, band, group, nation, or Alaskan native village eligible under that act for funds under this part when one or more of these entities have authorized the Tribal organization to do so through concurring resolutions. Such resolutions must accompany the application for funding. Eligible Tribal organizations under Title I of the Indian Self-Determination and Education Assistance Act will be determined by the Bureau of Indian Affairs.

Only eligible applicants shall receive grants. However, eligible applicants may contract or otherwise agree with noneligible entities such as States, cities, counties, or other organizations to assist in the preparation of applications and to help implement assisted activities. For instance, private nonprofit organizations are not eligible to apply directly to HUD for a grant, but may receive funding from a grantee if the grantee determines that the nonprofit has the financial and organizational capacity to carry out the proposed activities.

#### (2) Thresholds

The selection process for the Indian tribe set-aside program consists of a

preliminary threshold review. The applicant must clearly demonstrate and HUD will review each application to determine whether:

- (a) The application is adequate in form, time, and completeness;
- (b) The applicant is eligible; and
- (c) The proposed activities and persons to be served are eligible for assistance under the program.

#### C. Obtaining Applications

Application packages are available from the HUD area Offices of Native American Programs listed in Appendix 2 to this NOFA.

#### D. Submitting Applications

The ONAP serving the area in which the applicant's project is located must receive an original application and one copy no later than 3:00 p.m. local time (i.e., the time in the office to which the application is submitted) on the deadline date May 26, 1995. Applications transmitted by FAX will not be accepted. A determination that an application was received on time will be made solely on receipt of the original application at the appropriate Office of Native American Programs serving the applicant's project.

The deadline is firm as to date and hour. In the interest of fairness to all competing applicants, HUD will treat any application that is received after the deadline as ineligible for consideration. Applicants should take this practice into account and make early submission of their materials to avoid any risk of ineligibility brought about by unanticipated delays or other delivery-related problems.

#### E. Rating Criteria

Applications that fulfill each of the threshold review requirements described in Section II.B, Eligibility and Threshold Requirements, of this NOFA will be rated up to 100 points based on the following criteria.

- (1) *Applicant capacity (30 points)*. HUD will award up to 30 points to an applicant that demonstrates the ability to carry out activities under its proposed program within a reasonable time, and in a successful manner, after execution of the grant agreement by HUD. Reviewers' knowledge of the applicant's previous experience will weigh heavily in the scoring. Documented evidence of poor or slow performance will enter strongly into that determination. The applicants that rate highest on this criterion will show substantial experience as an organization and/or staff in past endeavors that are directly related to the proposed project.

The applicant will receive the following points if it:

30 Shows *substantial* experience as an organization and/or staff in past endeavors that are *directly and comprehensively* related to the proposed projects; and demonstrates *assurance* of assisting the homeless within a reasonable time.

20 Shows *substantial* experience as an organization and/or staff in past endeavors that are *closely* (but not directly or comprehensively) related to the proposed project; and shows *promise* of assisting the homeless within a reasonable time.

10 Shows *limited* experience as an organization and/or staff in past endeavors that are *closely* (but not directly or comprehensively) related to the proposed project; and shows *promise* of assisting the homeless within a reasonable time.

5 Shows *limited* experience as an organization and/or staff in past endeavors that are only *remotely* related to the proposed project; or some evidence exists that brings into question the organization's capacity to implement the proposed project; and it is *unclear* whether the organization will be able to assist the homeless within a reasonable time.

0 Shows *no* evidence as an organization and/or staff in past endeavors that relate to the demands of the proposed project; and substantial evidence exists that the organization is *incapable* of implementing the proposed project; and documented evidence exists that the organization *will not be able* to assist the homeless within a reasonable time.

(2) *Need (20 points)*. HUD will award up to 20 points to an applicant that demonstrates the existence of an unmet need for the proposed project in the area to be served. The applicants that rate highest on this criterion will: (a) clearly define the unmet housing and essential services needs of the homeless population proposed to be served in the area to be served by the project, (b) demonstrate in-depth knowledge of the population to be served and its needs, and (c) set forth an outreach strategy that assures that the intended population will be served.

The applicant will receive the following points if it:

20 *Clearly* defines the unmet housing and supportive services needs of the homeless population(s) to be served *in the area to be served* by the project. That unmet need (as described) is *great* relative to other applications reviewed. Presents evidence of use of *credible* surveys or other data gathering mechanisms to support claims made.

Application reveals *in-depth* understanding of the population(s) to be served and of its unmet housing and supportive services needs. Entry and outreach policies will *ensure* that the population(s) proposed to be served will *actually* be served by the project.

15 *Generally* defines the unmet housing and supportive services needs of a homeless population(s) to be served, but not as is comparable in magnitude to most other applications reviewed. Presents evidence of use of *acceptable* surveys or other data gathering mechanisms to support claims made. Application reveals *in-depth* understanding of the population(s) to be served and of its unmet housing and supportive services needs. Entry and outreach policies will *ensure* that the population(s) proposed to be served will *actually* be served by the project.

10 *Generally* defines the unmet housing and supportive service needs of a homeless population(s) to be served, but not as clearly in the specific area to be served. That unmet need (as described) is comparable in magnitude to most other applications reviewed. Presents evidence of use of *acceptable* surveys or other data gathering mechanisms to support claims made. Application reveals *general* understanding of the population(s) to be served and of its unmet housing and supportive services needs. Entry and outreach policies will *likely ensure* that the population(s) proposed to be served will *actually* be served.

5 Offers a *fragmentary description* of the unmet housing and supportive services needs of the homeless population(s) to be served by the project with *minimal evidence supporting the claim*. That unmet need (as described) is less in magnitude than most other applications reviewed. Supportive documentation is *very limited or tangential* to the unmet needs described. Application reveals only *limited* understanding of the population(s) proposed to be served or of its unmet needs. Entry and outreach policies relate *only indirectly* to the population(s) that the applicant proposes to serve.

0 *Fails to delineate* the unmet housing and supportive services needs of the homeless population(s) to be served by the project. Application reveals a *complete absence of understanding* of the population(s) to be served or of its unmet housing and supportive services needs.

(3) *Service to homeless population (20 points)*. HUD will award up to 20 points to an applicant that proposes to serve that part of the Indian homeless population that is most difficult to reach

and serve, i.e., those persons having a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, sleeping accommodations for human beings. In urban areas, this is usually referred to as living "on the street." To the extent that Indians living on reservations live in such situations (e.g., sleeping in cars, abandoned structures, out in the open), they meet the definition of living in conditions similar to living on the street.

HUD will focus upon proposed outreach and intake plans, and especially the degree to which such plans would maximize the likelihood that homeless persons would be served by the proposed project. The outreach strategy/intake procedures to seek out and evaluate the needs of the population to be served should be clearly described in the application.

The applicant will receive the following points if it:

20 *Clearly* specifies the reasons that individuals will be hard to reach in terms of their geographic location, specific problems, or their willingness to enter into the program; and states *clearly* how outreach to these individuals will be achieved by the applicant or with other organizations; and *specifically* reveals how intake process will be used to identify the needs of the population to be served.

10 *States only* that individuals will be hard to reach and does not contain any description of their geographic location, specific problems, or their willingness to enter into the program; and does not describe what outreach process will be used to seek out those individuals by the applicant or with other organizations; and states that an intake process will be used to identify the needs of the population to be served.

5 *States only* that individuals will be hard to reach and does not contain any description of their geographic location, specific problems, or their willingness to enter into the program; and does not describe what outreach process will be used to seek out those individuals by the applicant or with other organizations; and contains *little information* about what intake process will be used to identify the needs of the population to be served.

0 *Fails to delineate* that the population is hard to reach or what outreach measures will be used to contact the population to be served by the project.

(4) *Appropriateness of essential services (30 points)*. HUD will award up to 30 points to an applicant that proposes essential services that: (a) are appropriate to the needs of the

population proposed to be served; (b) are used or coordinated with existing sources of supportive services and networks of support in the community; and (c) to the degree possible, help to move residents to longer term housing situations. Applicants should describe what services are available and how they will make those services accessible to the people they serve. In addition, HUD will evaluate the means by which the people to be served will be assisted in moving to permanent housing that is appropriate and affordable. Applicants should describe what resources are available to assist the population they serve to find permanent housing.

The applicant will receive the following points if it:

30 Proposes a program of essential services that is *comprehensive* and that gives promise of being of very high quality; and that is *generally appropriate* to the needs of the population proposed to be served, responds to the changing needs of that population(s), *offers a personalized response* to the individual needs of the residents served; and *coordinates extensively* with other sources, public and private, of essential services and networks of support already existing within the community; and *can demonstrate with reasonable certainty* that the results of the program are likely to be successful. The applicant will have access to housing counseling, assistance with applying for other Federal, State, or local housing assistance programs, referrals to other organizations involved in these activities, or other assistance such as moving assistance, security deposits, or landlord/tenant negotiation directly related to entering transitional or permanent adequate and affordable housing.

20 Proposes a program of essential services that is *reasonably comprehensive* and that gives promise of being of good quality; that responds to a genuine need, as identified in Element (3); proposes use of other sources of essential services and existing networks of support; and offers *reasonable assurance* that the results of the program are likely to be successful. The applicant will have access to housing counseling, assistance with applying for other Federal, State, or local housing assistance programs, referrals to other organizations involved in these activities, or other assistance such as moving assistance, security deposits, or landlord/tenant negotiation directly related to entering transitional or permanent adequate and affordable housing.

10 Proposes a program of essential services that is *reasonably comprehensive* and that gives promise of being of good quality; that responds to a genuine need, as identified in Element (3); proposes use of other sources of essential services and existing networks of support; and offers *reasonable assurance* that the results of the program are likely to be successful. The applicant will have access to housing counseling, assistance with applying for other Federal, State, or local housing assistance programs, or be able to make referrals to other organizations involved in these activities.

5 Presents a proposed project with a few services that meet basic needs but are *not designed* to encourage residents to move to greater independence within an emergency shelter environment.

0 Presents a proposed project with *no essential services* or with *services that are clearly inappropriate* to the population to be served; success is *highly unlikely*. The application fails to indicate how or when residents will be able to leave emergency shelter for transitional or permanent housing.

#### F. Ranking and Selection

Applications from Indian tribes within the area served by the applicable HUD Office of Native American Programs will be assigned a rating score and placed in ranked order, based upon the rating criteria listed in Section II.E of this NOFA. Only those applications receiving at least 50 total points will be given funding consideration. In the final stage of the selection process, qualified applicants will be selected for funding in accordance with their ranked order within each area ONAP, to the extent that funds are available within that area ONAP's jurisdiction.

In the event of a tie between applicants, the applicant with the highest total points for rating criterion (2), Need, in section II.E of this NOFA, will be selected. In the event of a procedural error that, when corrected, would warrant selection of an otherwise eligible applicant under this NOFA, HUD may select that applicant when sufficient funds become available.

Depending on the availability of funds, HUD may fund qualified applications regardless of location. If an area ONAP has insufficient funds to make awards to all of its qualified applicants, HUD may reallocate funds to that office from any other area ONAP that has funds remaining after making awards to all of its qualified applications.

### III. Checklist for Application Submission Requirements

A checklist of submission requirements is provided at Appendix 3 to this NOFA, to assist the applicant in preparing a complete application.

### IV. Corrections to Deficient Applications

HUD will notify the applicant if there are any curable technical deficiencies in the application. Curable technical deficiencies relate to minimum eligibility requirements (such as certifications and signatures) that are necessary for funding approval but that do not relate to the quality of the applicant's program proposal under the selection criteria. The applicant must submit corrections in accordance with the information provided by HUD within 14 calendar days of the date of the HUD notification.

In accordance with the provisions of 24 CFR part 4, subpart B, HUD may contact an applicant to seek clarification of an item in an applicant's application, or to request additional or missing information. The clarification or the request for additional or missing information shall not relate to items that would improve the substantive quality of the application pertinent to the funding decision.

### V. Other Matters

#### A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. This Finding is available for public inspection between 7:30 a.m. to 5:30 p.m. weekdays in the Office of the Rules Docket Clerk in the Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

#### B. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, this NOFA is not subject to review under the Order. This NOFA announces the availability of funds set aside for Indian tribes for emergency

shelter activities and invites applications from eligible applicants.

#### C. Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, *the Family*, has determined that this NOFA, to the extent the funds provided under it are directed to families, has the potential for a beneficial impact on family formation, maintenance, and general well-being. Since any impact on families is beneficial, no further review is considered necessary.

#### D. Economic Opportunities for Low- and Very Low-Income Persons

All applicants are herein notified that the provisions of section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations in 24 CFR part 135 are applicable to funding awards made under this NOFA. One of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, job training, employment, contracting, and other economic opportunities to section 3 residents and section 3 business concerns. Tribes that receive HUD assistance described in this part shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

#### E. Section 102 of the HUD Reform Act: Documentation and Public Access Requirements; Applicant/Recipient Disclosures

*Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for

further information on these documentation and public access requirements.)

**Disclosures.** HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

#### *F. Section 103 of the HUD Reform Act*

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) was published in the **Federal Register** on May 13, 1991 (56 FR 22088), and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to this funding competition. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

#### *G. Section 112 of the HUD Reform Act*

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by HUD and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance

received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence HUD in these ways, they are urged to read that final rule, particularly the examples contained in Appendix A of that rule.

#### *H. Prohibition Against Lobbying Activities*

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the Byrd Amendment), and the implementing regulations in 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. Indian Housing Authorities (IHAs) established by an Indian tribe as a result of the exercise of their sovereign power are excluded from coverage, but IHAs established under State law are not excluded from coverage.

#### *I. The Catalog of Federal Domestic Assistance Program Number is 14.231.*

**Authority:** 42 U.S.C. 11376; 42 U.S.C. 3535(d).

Dated: April 5, 1995.

**Joseph Shuldiner,**

*Assistant Secretary for Public and Indian Housing.*

#### **Appendix 1—Statutory Amendments (Section I.B)**

National Affordable Housing Act Amendments: Sections (1)–(6) below describe the relevant NAHA amendments.

(1) *Extension of eligibility to Indian tribes.* Section 832(f) of NAHA (42 U.S.C. 11371–11378) expressly extends eligibility for assistance under the ESG program to Indian tribes, and has the effect of applying the same formula as used in the Community Development Block Grant (CDBG) program for determining the amount of ESG funds to be set aside for Indian tribes. The 1 percent figure for the Indian tribe set-aside is dictated by sections 832(f)(3) and 913(b) of NAHA (42 U.S.C. 5306).

(2) *Administrative costs.* Section 832(b)(1) of NAHA (42 U.S.C. 11378) permits recipients to use up to 5 percent of an ESG program grant for administrative purposes. This amount equals 5 percent of the total of amounts of ESG funds requested for all other eligible activities. Administrative costs include: costs of accounting for the use of grant funds, preparing reports for submission to HUD or to the State, obtaining program audits, conducting environmental reviews, coordinating program activities, and similar costs related to administering the grant. These costs do not include the costs of carrying out other activities eligible under the ESG program.

(3) *Use of funds for essential services.* Section 832(c) of NAHA (42 U.S.C. 11374(a)(2)(B)) increased the percentage of a grant that may be used to provide essential services from 20 percent to 30 percent. Consistent with this amendment, HUD will apply its waiver authority in section 414(b) of the McKinney Act to the new, higher 30 percent limitation. As with the previous 20 percent limit, the 30 percent limit is to be measured against the aggregate amount of each emergency shelter grant to an Indian tribe. Section 832(f)(6) of NAHA makes the limitations on the provision of essential services applicable to Indian tribes.

(4) *Use of funds for prevention of homelessness.* Homelessness prevention was added as a category of eligible activities by section 423 of the Stewart B. McKinney Homeless Assistance Amendments Act (Pub. L. 100–688, approved November 7, 1988), which also treated these activities as "essential services." However, section 832(d) of NAHA (42 U.S.C. 11374(a)(4)) withdraws homelessness prevention activities from categorization as "essential services," and imposes a separate limit of 30 percent of the aggregate amount of assistance to any recipient, including an Indian tribe, that may be used for efforts to prevent homelessness.

Thus, under NAHA, essential services and homelessness prevention are now each subject to a 30 percent cap. However, unlike the category of essential services, there is no statutory authority to permit a waiver of the cap on the amount of assistance that may be used for homelessness prevention activities. By its express terms, the statutory waiver is available only in the category of essential services.

(5) *Confidentiality of records for family violence services.* Section 832(e) of NAHA (42 U.S.C. 11375(c)(5)) requires each recipient to certify that it will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services with ESG program assistance. In addition, the address or location of any ESG-assisted housing used as a family violence shelter may not be made public without the written authorization of persons responsible for the operation of the shelter. This new certification is included in the application kit, as provided in Section III of this NOFA.

(6) *Establishes habitability standards.* Section 832(g) of NAHA (42 U.S.C. 11376(c)) requires the Secretary to prescribe the minimum standards of habitability

appropriate to ensure that emergency shelters assisted by this program are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. A description of the Minimum Habitability Standards and the required certification is included in the application kit, as provided in Section III of this NOFA. The Habitability Standards that have been developed under section 832(g) of NAHA to apply to emergency shelters are as follows:

(a) *Structure and materials.* The shelter shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment.

(b) *Access.* The shelter shall be accessible and capable of being utilized without unauthorized use of other private properties. The building shall provide an alternate means of egress in case of fire.

(c) *Space and security.* Each occupant shall be afforded adequate space and security for the occupant's person and belongings. Each occupant shall be provided an acceptable place to sleep.

(d) *Interior air quality.* Every room or space shall be provided with natural or mechanical ventilation. The shelter shall be free of

pollutants in the air at levels that threaten the health of the occupants.

(e) *Water supply.* The water supply shall be free from contamination at levels that threaten the health of the recipients.

(f) *Sanitary facilities.* Shelter occupants shall have access to sanitary facilities that are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(g) *Thermal environment.* The shelter shall have adequate heating and cooling facilities in proper operating condition.

(h) *Illumination and electricity.* The shelter shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

(i) *Food preparation and refuse disposal.* All food preparation areas shall contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.

(j) *Sanitary condition.* The shelter and its equipment shall be maintained in sanitary condition.

*Housing and Community Development Act of 1992 Amendments:* Sections (7)–(9) below

describe the relevant changes of the 1992 Act.

(7) *Certification of involvement of homeless individuals and families.* The recipient must certify that, to the maximum extent practicable, it will involve homeless individuals and families, through employment, volunteer services, or otherwise, in providing services and in constructing, renovating, maintaining, and operating facilities, when assistance is provided for those activities under the program.

(8) *Termination of assistance.* The recipient may terminate assistance provided to an individual or a family only in accordance with a formal process established by the recipient that recognizes the rights of the individuals affected, which may include a hearing.

(9) *Eligibility of staff costs.* Staff costs relating to the operation of emergency shelters are specifically recognized as an eligible activity, but not more than 10 percent of the amount of any grant may be used for these costs. Staff costs for maintenance of and security for emergency shelters will not be counted against the 10 percent cap.

## APPENDIX 2.—HUD OFFICES OF NATIVE AMERICAN PROGRAMS

Tribes and IHAs located	ONAP address
East of the Mississippi River (including all of Minnesota and Iowa).	Eastern/Woodlands Office of Native American Programs, 5P, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604–3507, (312) 353–1282 or (800) 735–3239, TDD Numbers: 1–800–927–9275 or 312–886–3741.
Louisiana, Missouri, Kansas, Oklahoma, and Texas except for Isleta del Sur.	Southern Plains Office of Native American Programs, 6.IPI, Murrah Federal Building, 200 NW 5th Street, Oklahoma City, Oklahoma 73102–3202 (405) 231–4101, TDD Numbers: 405–231–4181 or 405–231–4891.
Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Arizona, California, New Mexico, Nevada, and Isleta del Sur in Texas.	Northern Plains Office of Native American Programs, 8P, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607, (303) 672–5462, TDD Number: 303–844–6158. Southwest Office of Native American Programs, 9EPID, Two Arizona Center, 400 North Fifth Street, Suite 1650, Phoenix, Arizona 85004–2361, (602) 379–4156, TDD Number: 602–379–4461.
Idaho, Oregon, and Washington .....	Northwest Office of Native American Programs, 10PI, 909 First Avenue, Suite 300, Seattle, Washington 98104–1000, (206) 220–5270, TDD Number: (206) 220–5185.
Alaska .....	Alaska Office of Native American Programs, 10.1PI, 949 East 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, (907) 271–4633, TDD Number: (907) 271–4328.

## Appendix 3—Checklist of Application Submission Requirements

Applicants must complete and submit applications in accordance with the instructions contained in the application kit. The following is a checklist of the application contents that will be specified in the application kit:

- \_\_\_\_ (1) Applicant Information, including name, address, contact person, and telephone number.
- \_\_\_\_ (2) Standard Form 424;

\_\_\_\_ (3) Certifications of compliance with the requirements of:

- \_\_\_\_ (a) 24 CFR 576.21(a)(4)(ii), concerning assistance provided for homelessness prevention activities; 567.51(b)(2)(v), concerning the funding of ESG activities in commercial facilities; 576.73, concerning the continued use of buildings as emergency shelters or the population to be served; 576.75, concerning building standards; 576.77, concerning assistance to the homeless; and 576.80, concerning displacement and relocation;
- \_\_\_\_ (b) The Indian Civil Rights Act (25 U.S.C. 1301), and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b));
- \_\_\_\_ (c) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);
- \_\_\_\_ (d) The Age Discrimination Act of 1975 (42 U.S.C. 6101–07);
- \_\_\_\_ (e) Executive Orders 11625, 12432, and 12138, promoting the use of

minority business enterprises and women-owned businesses to the maximum extent consistent with the Indian Self-Determination and Education Assistance Act;

\_\_\_\_ (f) The requirements of 24 CFR part 24, concerning the Drug-Free Workplace Act of 1988;

\_\_\_\_ (g) Section 832(e)(2)(C) of NAHA, concerning the confidentiality of records pertaining to any individual provided family violence prevention or treatment services;

\_\_\_\_ (h) Section 832(g) of NAHA, concerning minimum habitability standards prescribed by the Department;

\_\_\_\_ (i) Section 104(g) of the Housing and Community Development Act of 1974 and 24 CFR part 58, concerning assumption of the HUD environmental review responsibilities;

\_\_\_\_ (j) Section 576.71(b)(2)(vii), concerning compliance with tribal law in the submission of an application for an

emergency shelter grant, and possession of legal authority to carry out emergency shelter grant activities.

\_\_\_\_(k) Prohibitions on the use of Federal funds for lobbying, and the completion of SF-LLL, Disclosure Form to Report Lobbying, if applicable.

\_\_\_\_(l) 42 U.S.C. 11375(c)(7), as added by the Housing and Community Development Act of 1992, concerning the involvement through employment, volunteer services, or otherwise, to the maximum extent practicable, of homeless individuals and families in

constructing, renovating, maintaining, and operating facilities assisted under the ESG program, and in providing services for occupants of these facilities.

\_\_\_\_(m) Section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations in 24 CFR part 135.

\_\_\_\_(4) Form HUD-2880, Applicant/Recipient Disclosure/Update Form, if applicable.

\_\_\_\_(5) Project Summary and Proposed Budgets.

\_\_\_\_(6) Description of the homeless population to be served.

\_\_\_\_(7) Facility Description.

\_\_\_\_(8) Narrative addressing the rating criteria.

\_\_\_\_(9) Matching funds certification as required under § 576.51(b)(2)(ii), § 576.71, and section 415 of the McKinney Act (42 U.S.C. 11375(a)).

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